IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2469 OF 2007

IN

SUIT NO.4162 OF 1995

Roopnarayan Sah & Anr. ... Plaintiffs

Vs.

Smt. Smita Rajiv Sah ... Defendant

Mr. A. Bhagwat i/b M/s. Divekar & Co. for the plaintiffs.

Mr. Kunal Damley i/b Udwadia & Udeshi for the defendant.

CORAM : SMT. RANJANA DESAI, J.

DATED : AUGUST 17, 2007.

P.C.:-

In order dated 9/8/2007, there is an inadvertent error, hence that order is recalled by consent of the parties and is substituted by the following order :

"Not on board, mentioned urgently.

This notice of motion is taken out by the plaintiffs for fixing an early date of hearing on the ground that the plaintiffs are about 80 years old. The learned counsel for the defendant has no objection if the suit is expedited. Hence, the suit is expedited.

The learned counsel for the plaintiffs states that affidavit of evidence of the plaintiffs along with the documents will be filed in this court by 12/9/2007. The documents will, of course, be taken on record subject to the objection as regards admissibility, if any, raised by the defendant.

Ms. Madhuri Gaikwad, having address at C/o. Kishor Tembe, 59, Dr. V.B. Gandhi Marg, Kala Ghoda, Near Rythem House, Fort, Mumbai – 400 023, is appointed as Court Commissioner for the purpose of recording evidence of all the witnesses. The fees of the Court Commissioner are fixed at Rs.2000/- per sitting to be shared equally by the parties. The Commissioner shall fix her schedule. She shall complete the recording of evidence within a period of two months from the date when the plaintiffs file affidavit of evidence and suit is ready for hearing in all respects and submit her report to this court. The order regarding appointment of Court

Commissioner shall take effect after the suit is ready for hearing. Notice of motion is disposed of in the aforestated terms."

[SMT. RANJANA DESAI, J.]